**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**
**ORDINARY ORIGINAL CIVIL JURISDICTION**

**WRIT PETITION NO. 832 OF 2006**

Mr. Pankaj Mahesh Sankhe. ] ..Petitioner

Vs.

1. The Municipal Corpn. of Gr. Mumbai & Anr. ] ] ..Respondents

Mr. S.J. Panicker for the petitioner.

Mr. P.M. Palshikar with Ms. Trupti H. Puranik for the respondents.

**CORAM : F.I. REBELLO,**
**ANOOP V. MOHTA, JJ.**

**DATED : 27TH APRIL, 2006**

**P.C.**

. Rule. Heard forthwith.

2. Respondents had invited applications for teaching posts in Primary School. As there were vacancies for reserved category, a special drive was initiated to fill in the backlog of such reserved category candidates. Petitioner belongs to NT-D. In terms of the advertisement, the last date for receipt of the applications was 30th September, 2004. The requirements were that the candidate had to possess HSc with D.Ed. Admittedly, on the last date, the petitioner did not possess D.Ed., but was undergoing the course.

Petitioner appeared for the examination in November, 2004. The results were declared in February, 2005. The petitioner was declared to have passed. The written test was held on 20th March, 2005. The petitioner was called for the written test and was successful. An oral interview was thereafter held at which also, the petitioner was successful. At the time the petitioner was to be sent for medical examination, according to the respondent, it was realised that the petitioner was not qualified as on the last date of receipt of the applications and accordingly, he was so informed. There are altogether 16 posts for NT-D candidates. Only four candidates have been found to be eligible. If the petitioner is considered to be eligible, there will be five candidates and still, there will be a backlog of eleven candidates. The drive was meant to fill in candidates belonging to NT-D category. It is in these peculiar facts and circumstances, that we have to consider this matter.

3. On behalf of the respondents, learned counsel points out that this Court should not interfere in the exercise of its extra ordinary jurisdiction for, if the petitioner is considered, the respondents are not in a position to know as to how many other similarly situated

candidates have been kept out.

4. Having heard counsel, we are of the opinion that on the peculiar facts of this case and as the drive was to fill in the post of candidate for NT-D, this Petition will have to be allowed. As noted, before the written examination was held, the petitioner had already obtained the D.Ed. degree. The petitioner thereafter has passed the written test as also the oral test. After the four candidates were selected, there are still twelve other vacancies. In these facts of the case, we do not think any purpose would be served by calling on the petitioner to appear for a fresh interview for the backlog which will remain. Ends of justice would be met if the respondents are directed, on the peculiar facts of this case, to send the petitioner for the medical examination and if he passes the medical test, then to issue him appointment order according to law.

5. Rule made absolute accordingly. On the peculiar facts of this case, we direct that this order not to be treated as a precedent.

Sd/-
**[F.I. REBELLO, J.]**

Sd/-
**[ANOOP V. MOHTA, J.]**